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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

**STAR FABRICS, INC., a California
Corporation,**

Plaintiff,

V.

DESE ENTERPRISE, INC., dba AMI CLUBWEAR, a California Corporation; 10DOLLARMALL, LLC, a California Limited Liability Company; and DOES 1 through 10,

Defendants.

| Case No.: CV 15-8152-GW (PJWx)
| *Hon. George H. Wu Presiding*

**PLAINTIFF'S FIRST AMENDED
COMPLAINT FOR COPYRIGHT
INFRINGEMENT**

Jury Trial Demanded

Star Fabrics, Inc., by and through its undersigned attorneys, hereby prays to this honorable Court for relief based on the following:

JURISDICTION AND VENUE

1. This action arises under the Copyright Act of 1976, Title 17 U.S.C., § 101
et seq.

2. This Court has federal question jurisdiction under 28 U.S.C. § 1331 and 1338 (a) and (b).

3. Venue in this judicial district is proper under 28 U.S.C. § 1391(c) and 1400(a) in that this is the judicial district in which a substantial part of the acts and omissions giving rise to the claims occurred.

PARTIES

4. Plaintiff STAR FABRICS, INC. is a corporation organized and existing under the laws of the State of California with its principal place of business located at 1440 East Walnut Street, Los Angeles, California 90011.

5. Plaintiff is informed and believes and thereon alleges that Defendant DESE ENTERPRISE, INC., dba AMI CLUBWEAR (“AMI”) is a corporation organized and existing under the laws of the state of California with its principal place of business located at 13001 Temple Ave., City of Industry, CA 91746, and is doing business in and with the state of California.

6. Plaintiff is informed and believes and thereon alleges that Defendant 10DOLLARMALL, LLC (“10DOLLARMALL”) is a limited liability company organized and existing under the laws of the state of California with its principal place of business located at 3515 Main St., Suite 201, Chula Vista, CA 91911, and is doing business in and with the state of California.

7. Plaintiff is informed and believes and thereon alleges that Defendants DOES 1 through 10, inclusive, are other parties not yet identified who have infringed Plaintiff's copyrights, have contributed to the infringement of Plaintiff's copyrights, or have engaged in one or more of the wrongful practices alleged herein. The true names, whether corporate, individual or otherwise, of Defendants 1 through 10, inclusive, are presently unknown to Plaintiff, which therefore sues said Defendants by such fictitious names, and will seek leave to amend this Complaint to show their true names and capacities when same have been ascertained.

8. Plaintiff is informed and believes and thereon alleges that at all times relevant hereto each of the Defendants was the agent, affiliate, officer, director, manager, principal, alter-ego, and/or employee of the remaining Defendants and was at all times acting within the scope of such agency, affiliation, alter-ego relationship and/or employment; and actively participated in or subsequently ratified and/or adopted each of the acts or conduct alleged.

CLAIMS RELATED TO DESIGN NO. 65934

9. Plaintiff owns an original two-dimensional artwork used for purposes of textile printing entitled 65934 (“Subject Design”) which has been registered with the United States Copyright Office.

10. Prior to the acts complained of herein, Plaintiff widely disseminated fabric bearing Subject Design to numerous parties in the fashion and apparel industries.

11. Plaintiff is informed and believes and thereon alleges that following its distribution of Subject Design, AMI, 10DOLLARMALL, DOE Defendants, and each of them distributed and/or sold fabric and/or garments featuring a design which is substantially similar to Subject Design (hereinafter “Subject Product”) without Plaintiff’s authorization, including but not limited to products sold by:

- a. AMI under UPC 1250148 and bearing the label Love Sweet USA, indicating that it was manufactured by or for Love Sweet USA.
 - b. 10DOLLARMALL under SKU LD2011 and bearing the label Love Sweet USA, indicating that it was manufactured by or for Love Sweet USA.

12. An image of Subject Design and an exemplar of Subject Product are set forth hereinbelow:

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Subject Design



Subject Product



FIRST CLAIM FOR RELIEF

(For Copyright Infringement - Against All Defendants, and Each)

13. Plaintiff repeats, realleges and incorporates herein by reference as though fully set forth the allegations contained in the preceding paragraphs of this Complaint.

14. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, had access to Subject Design, including, without limitation, through (a) access to Plaintiff's showroom and/or design library; (b) access to illegally distributed copies of Subject Design by third-party vendors and/or DOE Defendants, including without limitation international and/or overseas converters and printing mills; (c) access to Plaintiff's strike-offs and samples, and (d) access to garments in the marketplace manufactured with lawfully printed fabric bearing Subject Design.

15. Plaintiff is informed and believes and thereon alleges that one or more of the Defendants manufactures garments and/or is a garment vendor. Plaintiff is

1 further informed and believes and thereon alleges that said Defendant(s), and each of
2 them, has an ongoing business relationship with Defendant retailers, and each of
3 them, and supplied garments to said retailers, which garments infringed Subject
4 Design in that said garments were composed of fabric which featured unauthorized
5 print designs that were identical or substantially similar to Subject Design, or were
6 an illegal modification thereof.

7 16. Plaintiff is informed and believes and thereon alleges that Defendants, and
8 each of them, infringed Plaintiff's copyright by creating, making and/or developing
9 directly infringing and/or derivative works from Subject Design and by producing,
10 distributing and/or selling Subject Products through a nationwide network of retail
11 stores, catalogues, and through on-line websites.

12 17. Due to Defendants', and each of their, acts of infringement, Plaintiff has
13 suffered damages in an amount to be established at trial.

14 18. Due to Defendants', and each of their, acts of copyright infringement as
15 alleged herein, Defendants, and each of them, have obtained profits they would not
16 otherwise have realized but for their infringement of Subject Design. As such,
17 Plaintiff is entitled to disgorgement of Defendants', and each of their, profits
18 attributable to the infringement of Subject Design in an amount to be established at
19 trial.

20 19. Plaintiff is informed and believes and thereon alleges that Defendants, and
21 each of them, have committed copyright infringement with actual or constructive
22 knowledge of Plaintiff's rights such that said acts of copyright infringement were,
23 and continue to be, willful, intentional and malicious.

24 **PRAYER FOR RELIEF**

25 Wherefore, Plaintiff prays for judgment as follows:

- 26 a. That Defendants—each of them—and their respective agents and
27 servants be enjoined from importing, manufacturing, distributing,

- 1 offering for sale, selling or otherwise trafficking in any product that
2 infringes Plaintiff's copyrights in Subject Design;
- 3 b. That Plaintiff be awarded all profits of Defendants, and each of them,
4 plus all losses of Plaintiff, the exact sum to be proven at the time of trial,
5 or, if elected before final judgment, statutory damages as available under
6 the Copyright Act, 17 U.S.C. § 101 et seq.;
- 7 c. That Plaintiff be awarded its attorneys' fees as available under the
8 Copyright Act U.S.C. § 101 et seq.;
- 9 d. That Plaintiff be awarded pre-judgment interest as allowed by law;
10 e. That Plaintiff be awarded the costs of this action; and
11 f. That Plaintiff be awarded such further legal and equitable relief as the
12 Court deems proper.

13
14 Plaintiff demands a jury trial on all issues so triable pursuant to Fed. R. Civ. P.
15 38 and the 7th Amendment to the United States Constitution.

16 Dated: November 10, 2015

DONIGER/BURROUGHS

17 By: /s/ Stephen M. Doniger
18 Stephen M. Doniger, Esq.
19 Howard S. Han, Esq.
20 Attorneys for Plaintiff